

By: Woolley

H.B. No. 1572

A BILL TO BE ENTITLED

AN ACT

relating to providing guidelines to the supreme court for the promulgation of rules for an exception from discovery in civil cases for nonparty law enforcement agencies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 18, Civil Practice and Remedies Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PROMULGATION OF CERTAIN DISCOVERY RULES

Sec. 18.121. DEFINITION. In this subchapter, "law enforcement agency" means a governmental agency that employs a peace officer as defined under Article 2.12, Code of Criminal Procedure.

Sec. 18.122. SUPREME COURT TO MAKE RULES. The supreme court shall promulgate rules for an exception from discovery for a nonparty law enforcement agency in civil cases for investigative files, strategies, and techniques for ongoing investigations, in accordance with the guidelines provided by this subchapter.

Sec. 18.123. GUIDELINES FOR RULES. (a) The rules promulgated by the supreme court must provide that, except on a court order as provided in Subsection (b)(1), a party to a civil suit may not compel discovery from a nonparty law enforcement agency of information, records, documents, evidentiary materials, and tangible things that deal with:

(1) the detection, investigation, or prosecution of

1 crime; or

2 (2) the specific investigation of a criminal act or  
3 event that has not resulted in a conviction or deferred  
4 adjudication of the individual or entity responsible for the crime.

5 (b) The rules promulgated by the supreme court must provide  
6 that the court:

7 (1) may order discovery from a law enforcement agency  
8 only on motion of the party seeking discovery and after a showing of  
9 relevancy and materiality and a specific need in the interest of  
10 justice for the information, records, documents, evidentiary  
11 materials, and tangible things requested;

12 (2) shall consider all appropriate protective  
13 measures to prevent the dissemination and use of the privileged and  
14 confidential law enforcement information, records, documents,  
15 evidentiary materials, and tangible things described in Subsection  
16 (a) beyond that which the court considers necessary for purposes of  
17 the civil litigation; and

18 (3) shall issue an abatement of the civil proceedings  
19 on proof that a criminal prosecution has been initiated based on the  
20 criminal investigation of the law enforcement agency.

21 (c) The rules promulgated by the supreme court must provide  
22 that all parties seeking discovery for a nonparty law enforcement  
23 agency must comply with the notice requirements for the applicable  
24 form of discovery before filing the motion under Subsection (b)(1).

25 SECTION 2. The rules that the supreme court is required to  
26 promulgate under Subchapter E, Chapter 18, Civil Practice and  
27 Remedies Code, as added by this Act, must be in effect on January 1,

1 2008.

2           SECTION 3. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2007.